

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 364
OFFERED BY MR. HALL OF TEXAS, MR. GINGREY
OF GEORGIA, AND MRS. BIGGERT OF ILLINOIS

Strike all after the enacting clause and insert the
following:

1 SECTION 1. ADVANCED RESEARCH PROJECTS AUTHORITY-
2 ENERGY (ARPA-E).

3 (a) FINDINGS.—The Congress finds the following:

4 (1) The Department of Energy through existing
5 authorities and programs promotes technology trans-
6 fer of basic and applied research funded by the De-
7 partment of Energy and performed at its national
8 laboratories, nonprofit and educational institutions,
9 and the private sector, but there is a need to more
10 quickly identify opportunities to accelerate the com-
11 mercial application of new energy technologies to
12 meet national energy needs.

13 (2) The principal Department of Energy pro-
14 gram organizations that already oversee various
15 projects for basic and applied research and commer-
16 cialization of new energy technologies are the Office
17 of Science, the Office of Energy Efficiency and Re-

1 newable Energy, the National Nuclear Security Ad-
2 ministration, the Office of Fossil Energy, the Office
3 of Electricity Delivery and Energy Reliability, and
4 the Office of Nuclear Energy.

5 (3) A more fully integrated Departmental ap-
6 proach to advanced energy research will help bridge
7 the gap between basic research and applied tech-
8 nology to overcome long-term and high-risk techno-
9 logical barriers to the development of advanced en-
10 ergy technologies.

11 (b) DEFINITIONS.—For purposes of this section—

12 (1) the term “ARPA-E project” means a
13 project identified by the Secretary that shows prom-
14 ise to accelerate efforts to overcome long-term and
15 high-risk technological barriers to the development
16 of advanced energy technologies, including projects
17 on—

18 (A) advanced basic energy-related research
19 that shows unique innovation and scientific and
20 technical merit and the potential for commercial
21 application;

22 (B) development of resultant technologies
23 and processes for energy supply and efficient
24 end use; and

1 (C) demonstration and commercial applica-
2 tion of the most promising energy technologies
3 and research applications on both a large and
4 small scale; and

5 (2) the term “Secretary” means the Secretary
6 of Energy.

7 (c) SELECTION CRITERIA.—In identifying ARPA-E
8 projects for support, the Secretary shall—

9 (1) ensure that ARPA-E projects do not alter
10 the Department’s current balance of effort along the
11 spectrum of energy research and development activi-
12 ties;

13 (2) consider the novelty, scientific and technical
14 merit, and potential transformative nature of the
15 proposed projects;

16 (3) consider the demonstrated capabilities of
17 the applicants to successfully carry out the proposed
18 research project;

19 (4) consider the viability of avenues for com-
20 mercial application, including the transfer of tech-
21 nologies to the private and public sector; and

22 (5) consider such other criteria as are estab-
23 lished by the Secretary.

1 (d) AUTHORIZATION.—There are authorized to be ap-
2 propriated to the Secretary for carrying out ARPA-E
3 projects—

4 (1) \$100,000,000 for fiscal year 2008;

5 (2) \$125,000,000 for fiscal year 2009;

6 (3) \$150,000,000 for fiscal year 2010;

7 (4) \$275,000,000 for fiscal year 2011; and

8 (5) \$100,000,000 for fiscal year 2012.

9 (e) PERSONNEL.—

10 (1) HIRING OF PERSONNEL.—The Secretary
11 shall carry out a program of experimental use of
12 special personnel management authority in order to
13 facilitate recruitment of eminent experts in science
14 or engineering for ARPA-E projects.

15 (2) SPECIAL PERSONNEL MANAGEMENT AU-
16 THORITY.—Under such program the Secretary may
17 utilize the hiring and management authorities de-
18 scribed in section 1101(b), (c), and (d) of the Strom
19 Thurmond National Defense Authorization Act for
20 Fiscal Year 1999 (5 U.S.C. 3104 note), except
21 that—

22 (A) for purposes of subsection (b)(1), the
23 number of positions that may be appointed
24 shall be no more than 20; and

1 (B) for purposes of subsection (c), the
2 term of initial appointments for employees may
3 not exceed 3 years.

4 (f) PROTECTION OF INFORMATION.—

5 (1) IN GENERAL.—Disclosure of information
6 that is submitted to the Department of Energy
7 under a competitive or noncompetitive process pur-
8 suant to the authority granted in this section is not
9 required under section 552 of title 5, United States
10 Code, for five years after the date on which the in-
11 formation is received by the Department of Energy.
12 Such information includes—

13 (A) a proposal, proposal abstract, and sup-
14 porting documents;

15 (B) a business plan submitted on a con-
16 fidential basis; or

17 (C) technical information submitted on a
18 confidential basis.

19 (2) PROJECT INFORMATION.—The Secretary,
20 for a period of up to five years from the receipt by
21 the Department of information that results from any
22 transaction identified as an ARPA-E project, and
23 which is of a character that it would be protected
24 from disclosure under the meaning of section
25 552(b)(4) of title 5, United States Code, if the infor-

1 mation had been obtained from a non-Government
2 party, may provide appropriate protections against
3 the dissemination of such information, including ex-
4 emption from subchapter II of chapter 5 of title 5,
5 United States Code.

6 (g) COST SHARING.—Any transaction authorized by
7 this section shall be cost shared according to the principles
8 set forth in section 988 of the Energy Policy Act of 2005
9 (42 U.S.C. 16352).

10 (h) COORDINATION WITH OTHER AGENCIES.—The
11 Secretary may coordinate program activities associated
12 with an ARPA-E project with other agencies, and may
13 enter into agreements with other agencies to further the
14 success of an ARPA-E project. Where appropriate the
15 Secretary shall coordinate technology transfer efforts with
16 the Technology Transfer Coordinator established in sec-
17 tion 1001 of the Energy Policy Act of 2005.

18 (i) AWARD OF PRIZE MONEY.—To the extent consid-
19 ered appropriate by the Secretary, the Secretary may exer-
20 cise the authority provided in section 1008 of the Energy
21 Policy Act of 2005 (42 U.S.C. 16396) to award prizes for
22 achievements under an ARPA-E project.

23 (j) RELATIONSHIP TO OTHER AUTHORITIES.—The
24 authorities granted by this section are in addition to exist-

1 ing authorities granted to the Secretary, and are not in-
2 tended to supersede or modify any existing authorities.

3 (k) ISSUANCE OF DIRECTIVE.—Not later than 120
4 days after the date of enactment of this Act, the Depart-
5 ment of Energy shall issue a Directive that sets forth how
6 the Department intends to identify, manage, and admin-
7 ister ARPA-E projects.

8 (l) INITIAL PROJECTS.—Not later than 270 days
9 after the date of enactment of this Act, the Secretary shall
10 designate up to 2 ARPA-E projects for funding.

11 (m) REPORT TO CONGRESS.—Not later than one year
12 after the date of enactment of this Act, the Secretary shall
13 submit a report to Congress describing the status of any
14 proposed or existing ARPA-E projects.

15 (n) POSITIVE RECOMMENDATION.—The Secretary
16 shall take no actions under this section unless the study
17 conducted under section 1821(b)(3) of the Energy Policy
18 Act of 2005 contains a recommendation that the manage-
19 ment practices used by the Defense Advanced Research
20 Projects Agency are applicable to the research programs
21 at the Department of Energy.